



**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

D.T.C. 21-1

June 7, 2021

Petition of Starlink Services, LLC for Designation as an Eligible Telecommunications Carrier

ORDER APPROVING PETITION

I. INTRODUCTION AND PROCEDURAL HISTORY

In this Order, the Department of Telecommunications and Cable (“Department”) grants Starlink Services, LLC’s (“Starlink” or “the Company”) petition (“Petition”) for designation as an Eligible Telecommunications Carrier (“ETC”) pursuant to 47 U.S.C. § 214(e)(2) in those Massachusetts census blocks Starlink lists in Exhibit 1 to its Petition (the “Service Area”). Starlink requests ETC designation in order to permit it to receive funding that it was provisionally awarded under the Federal Communications Commission’s (“FCC”) Rural Digital Opportunity Fund (“RDOF”) Auction. *See FCC Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes*, Public Notice, DA 20-1422 (Dec. 7, 2020) at Attachment A, p. 4 (“*Auction Results Notice*”). Starlink intends to use these funds to offer voice and broadband services to unserved and underserved locations in the Service Area. The Department grants Starlink’s Petition, subject to the conditions set forth below, because the Company meets the standards that must be applied when evaluating any prospective ETC. *See* 47 C.F.R. §§ 54.101-54.422; *Fed.-State J. Bd. on Universal Serv., Rep. & Order*, FCC 05-46 (rel. Mar. 17, 2005) (“*Universal Service Order*”); *In re Connect Am. Fund, Rep. & Order & Further Notice of Proposed Rulemaking*, FCC 11-161 (rel. Nov. 18, 2011) (“*USF/ICC Transformation Order*”); *In re Connect Am. Fund, Rep. & Order & Further Notice of Proposed Rulemaking*, FCC 16-64 (rel.

May 26, 2016) (“*CAF II Order*”); *In re Rural Digital Opportunity Fund, Rep. & Order*, FCC 20-5 (rel. Feb. 7, 2020) (“*RDOF Order*”).

The Department further grants Starlink’s Motions for Protection from Public Disclosure, subject to the conditions discussed below.

Starlink filed its Petition on January 4, 2021, requesting to be designated as an ETC in the Service Area for the purpose of receiving the funding awarded through the RDOF Auction. On February 25, 2021, the Department issued an Order of Notice that required Starlink to publish the Notice of Public Hearing in the Boston Globe and Springfield Republican no later than March 11, 2021, and make proof of such publication to the Department by March 23, 2021. On March 4, 2021, Starlink filed proof that the Notice of Public Hearing was published in the Boston Globe on March 1, 2021, and in the Springfield Republican on March 2, 2021. On March 4, 2021, the Department issued its First Set of Information Requests to Starlink (“First IRs”). The Department received Starlink’s responses on March 18, 2021, along with a Motion for Protection from Public Disclosure relating to its responses to IR 1-1 and IR 1-12(a). On April 15, 2021, the Department issued its Second Set of Information Requests to Starlink (“Second IRs”). The Department received Starlink’s responses on April 30, 2021, along with a Motion for Protection from Public Disclosure relating to its responses to 2-1 and 2-13. Starlink filed supplemental responses to the First IRs on May 3, 2021, May 10, 2021, and May 21, 2021.

On March 25, 2021, the Department held a public hearing on the Petition. No comments were received on the Petition, and no parties intervened in this proceeding. The evidentiary record consists of the Petition, Starlink’s Motions for Protection from Public Disclosure, Starlink’s proof of publication of notice of the hearing, Starlink’s responses to the First IRs (“IR 1-1” through “IR 1-26”) along with its supplemental responses, and Starlink’s responses to the

Second IRs. (“IR 2-1” through “IR 2-15”).

II. Motions for Protective Treatment

On March 18, 2021, Starlink filed its Responses to the First IRs. With its filing, Starlink included a Motion for Protective Treatment of Confidential Information (“Motion 1”), seeking to protect portions of its responses to the following: IR 1-1, in response to which Starlink filed its FCC Form 183 (RDOF Short Form Application) and FCC Form 683 (RDOF Long Form Application), both of which Starlink claimed contain proprietary corporate and technical information; and IR 1-12(a), Starlink’s number of beta program customers by state. Motion 1 at 1. On April 30, 2021, Starlink filed its responses to the Second IRs. With its filing, Starlink included a Motion for Protective Treatment of Confidential Information (“Motion 2”) seeking to protect portions of its responses to the following: IR 2-1, in response to which Starlink references a portion of its FCC Form 683 that contains valuable corporate and technical information; and IR 2-13, relating to outages of Starlink’s beta service. Because the Motions are similar in nature, we will consider them together.

As support for its Motions, Starlink contends the information for which it seeks protection constitutes proprietary and competitively sensitive information because: (1) it concerns Starlink’s corporate and technical information; (2) the information’s disclosure could place Starlink at a competitive disadvantage by providing its competitors with valuable information about Starlink; (3) it is information Starlink does not otherwise make publicly available and that Starlink takes affirmative steps to protect; and (4) Starlink’s interest in maintaining the confidentiality of the data far outweighs any benefit obtained through public disclosure. Motion 1 at 3; Motion 2 at 3-4.

All documents and data received by the Department are generally considered public

records and, therefore, are to be made available for public review under a general statutory mandate. *See* G.L. c. 66, § 10; G.L. c. 4, § 7(26). “Public records” include “all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, or of any political subdivision thereof, or of any authority established by the general court to serve a public purpose unless such materials or data fall within [certain enumerated] exemptions.” G.L. c. 4, § 7(26). Materials that are “specifically or by necessary implication exempted from disclosure by statute” are excluded from the definition of “public records.” *Id.* § 7(26)(a).

The Department is permitted to “protect from public disclosure trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted pursuant to this chapter.” G.L. c. 25C, § 5. In applying this exception, there is a presumption that “the information for which such protection is sought is public information and the burden shall be upon the proponent of such protection to prove the need for such protection.” *Id.*

Chapter 25C, § 5 provides a three-part standard for determining whether, and to what extent, information filed by a party in the course of a Department proceeding may be protected from public disclosure. First, the information for which protection is sought must constitute “trade secrets, confidential, competitively sensitive or other proprietary information.” Second, the party seeking protection must overcome the statutory presumption that all such information is public by “proving” the need for its non-disclosure. *See* G.L. c. 66, § 10. Third, even where a party proves such need, the Department may protect only so much of that information as is

necessary to meet the established need and may limit the term or length of time such protection will be in effect. *See* D.T.E. 01-31 Phase I, *Hearing Officer Ruling on Verizon Massachusetts' Motions for Confidential Treatment* at 2-3 (Aug. 29, 2001) (citing G.L. c. 25, § 5D, the prior applicable standard, which contains the same language as G.L. c. 25C, §5).

As to the first prong, the Department has previously recognized the competitively sensitive nature of certain technical information. *See In re YourTel Am., Inc.*, D.T.C. 11-1, *Hearing Officer Ruling on Motion for Protection from Pub. Disclosure* at 3-5 (July 6, 2011) (“*YourTel Ruling*”) (summarizing previous Department rulings concerning corporate and technical information such as facility location, equipment, and network structure and concluding that disclosure of such information could put a carrier at a competitive disadvantage). The Department has also recognized the competitively sensitive nature of companies’ confidential calculations, financial materials, and personnel information. *See In re BLC Mgmt., LLC d/b/a Angles Commc’ns Solutions*, D.T.C. 09-2, *Order* at 5-6 (Aug. 23, 2010) (“*Angles Order*”). Revealing corporate and technical information such as that contained in Starlink’s Forms 183 and 683 could adversely affect Starlink’s competitive position. Motion 1 at 3; Motion 2 at 3-4. Furthermore, Starlink states that it has filed its Forms 183 and 683 confidentially with the FCC and that they are not subject to public disclosure. Motion 1 at 3; Motion 2 at 3.

Turning to Starlink’s subscriber count, the Department has recognized that certain subscriber counts of certain companies constitute proprietary information and warrant confidential treatment if not otherwise publicly available. *In re Budget PrePay, Inc.*, D.T.C. 11-12, *Order Approving Petition* at 10 (Mar. 5, 2013) (“*Budget PrePay Order*”). The Department finds that Starlink’s subscriber count, particularly while its service is in beta, is proprietary and its disclosure could adversely affect Starlink’s competitive position.

Finally, regarding outage Starlink's outage information, Starlink argues that outages during beta testing "do not necessarily represent what customers ultimately may experience and therefore may be misused by competitors or others who may distort those figures for their own purposes." Motion 2 at 3-4. The Department agrees that Starlink's outage information while its service is in beta, is competitively sensitive and its disclosure could unfairly adversely affect Starlink's competitive position. *Cf. In re Amendments to Part 4 of the Comm'n's Rules Concerning Disruptions to Commc'ns, Second Report & Order*, FCC 21-34 (rel. Mar. 18, 2021) ¶¶ 7, 43-56 ("[Network outage] filings are presumed confidential and thus are withheld from routine public inspection.").

In sum, the Department finds that the information contained in Starlink's responses to IR 1-1, IR 1-12(a), IR 2-1, and IR 2-13 for which Starlink seeks protection is competitively sensitive to Starlink.

As to the second prong, the Department has long held it will not automatically grant requests for protective treatment, stating that "[c]laims of competitive harm resulting from public disclosure, without further explanation, have never satisfied the Department's statutory requirement of proof of harm." *See In re CoxCom, Inc. d/b/a Cox Commc'ns New England*, D.T.C. 08-8, *Hearing Officer Ruling on Motion of CoxCom, Inc., d/b/a Cox Commc'ns New England for Protective Order* (June 23, 2009). The Department accepts Starlink's assertion that it does not make this information available to the public. Motion 1 at 3; Motion 2 at 3-4. Furthermore, the Department has consistently found the type of information Starlink seeks to protect to warrant protection from public disclosure given the potential for competitive harms in the event of disclosure. *See YourTel Ruling; Angles Order; Budget PrePay Order*. Accordingly, the Department finds that Starlink has satisfied its burden to demonstrate that protection of the

competitively sensitive information is warranted.

Turning to the third prong, protection should be afforded only to the extent needed. The Department finds that a limitation on the protection Starlink seeks is appropriate. *See, e.g., In re Cox Com, Inc. d/b/a Cox Commc 'ns New England*, D.T.C. 07-10, *Hearing Officer Ruling* at 5-6 (May 30, 2008) (granting confidential treatment of certain information for a period of five years). The Department grants confidential treatment to Starlink's responses to the requested parts of IR 1-1, IR 1-12(a), IR 2-1, and IR 2-13 for a period of five years from the date of this Order. Starlink may renew its request for confidential treatment at the end of that five-year period with a showing of need for continuing protection. *See In re Cox Com, Inc. d/b/a Cox Commc 'ns New England*, D.T.C. 07-10, *Hearing Officer Ruling* at 5-6 (May 30, 2008) (affording the provider an opportunity to renew its request for confidential treatment at the end of the period).

The Department concludes that Starlink has satisfied its burden of showing a need for protection from public disclosure under the statute, and the Department grants Starlink's Motions for Protective Treatment of Confidential Information subject to the limitations described above.¹

III. PETITION FOR ETC DESIGNATION

Starlink has petitioned the Department for ETC designation in the Service Area in order to receive RDOF Auction funding to provide service to high-cost locations. State commissions, upon request and consistent with the public interest, convenience, and necessity, shall designate a common carrier as an ETC for a service area designated by the state commission if the carrier meets certain federal requirements. 47 U.S.C. § 214(e). The FCC has emphasized that state commissions should conduct a rigorous ETC designation process. *Universal Service Order*, ¶ 58.

¹ The Department may reconsider this ruling if the FCC at any point discloses any of the information publicly.

The Department grants Starlink's Petition, subject to the conditions specified herein.

A. Jurisdiction

In Massachusetts, the Department exercises jurisdiction over carriers pursuant to G.L. c. 159, § 12. *See In re City of Westfield Gas + Elec. Light Dep't*, D.T.C. 19-1, *Order Approving Petition* (Feb. 19, 2019); *Investigation by the Dep't on its Own Motion into the Implementation in Mass. of the Fed. Commc'ns Comm'n's Order Reforming the Lifeline Program*, D.T.C. 13-4, *Order Opening Investigation* (Apr. 1, 2013); *Investigation by the Dep't on its Own Motion into the Lifeline & Link-Up Programs for Mass. Tel. Customers*, D.T.C. 10-3, *Order Opening Investigation* (Sept. 17, 2010); *In re T-Mobile Ne. LLC*, D.T.C. 12-4, *Order* (Aug. 30, 2012) ("T-Mobile Order"). Further, federal law grants the Department the authority to designate a carrier as an ETC. 47 U.S.C. § 214(e)(2). Accordingly, it is the Department's responsibility to determine whether a carrier such as Starlink meets the ETC designation requirements. *See* Petition at 1 (asserting that the Department has jurisdiction to review and approve the Petition).

B. RDOF Phase I

On January 30, 2020, the FCC established the RDOF to increase broadband access among underserved communities. *See* Petition at 5. RDOF commits up to \$20.4 billion over 10 years to support the availability of high-speed broadband networks. *Id.* RDOF Phase I targeted areas that were unserved by 25/3 Mbps broadband. The FCC awarded support through a reverse auction that favored faster services with lower latency. *Id.* The FCC awarded Space Exploration Technologies Corp. ("SpaceX") \$885 million of this support to provide broadband and voice service in 35 states, including \$10,992,153 in Massachusetts. *Id.* On December 22, 2020, SpaceX assigned its winning bid to Starlink. *Id.* In order to use RDOF funds in Massachusetts, Starlink must receive ETC designation from the Department by June 7, 2021. *See id.* & n.10.

C. ETC Requirements

Only a carrier designated as an ETC is eligible to receive high-cost USF support.²

47 U.S.C. §§ 214(e), 254(e); 47 C.F.R. § 54.201. In order for the Department to grant Starlink's request for ETC designation, Starlink must:

- 1) Be a "common carrier" as defined by federal law. 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d).
- 2) Offer the required supported services in its designated service area using its own facilities or a combination of its own facilities and resale of services from another provider. 47 U.S.C. § 214(e)(1)(A); 47 C.F.R. § 54.101. Required supported services include: voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to emergency services (911 or enhanced 911 ("E911")), to the extent implemented; and broadband internet access with the capability to transmit data to and receive data by wire or radio from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up service. *USF/ICC Transformation Order*, ¶¶ 75-80; 47 U.S.C. § 214(e)(1)(A); 47 C.F.R. §§ 54.101, 54.201(d)(1), 54.401(a)(2), 54.405(a).
- 3) Advertise the availability of supported services and "the charges therefor using media of general distribution" throughout its designated service area (47 U.S.C. § 214(e)(1)(B); 47 C.F.R. § 54.201(d)(2)), and "[p]ublicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service." 47 C.F.R. § 54.405(b).³
- 4) Certify its commitment and ability to meet the service and performance quality requirements applicable to the type of USF support it receives. 47 C.F.R. § 54.202(a)(1)(i).⁴

² Starlink seeks ETC designation for the purpose of receiving high-cost USF support, and will also receive Lifeline funds to the extent that it is providing Lifeline service to verified low-income subscribers. *See* Petition at 1.

³ ETCs must disclose on all materials describing Lifeline service that the ETC is offering the service; the offer is a Lifeline service; Lifeline is a government program; the service is non-transferable; only eligible consumers may enroll in the program; and the program is limited to one discount per household. *See* 47 C.F.R. § 54.405(c), (d).

⁴ While 47 C.F.R. § 54.202 establishes requirements for ETC designation by the FCC, the Department applies these criteria to applicants for ETC designation by the Department. *In re Virgin Mobile USA, L.P.*, D.T.C. 10-11, *Order Approving Petition* at 5 (Sept. 9, 2011) ("*Virgin Mobile Order*"); *T-Mobile Order* at

- 5) Demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations. 47 C.F.R. § 54.202(a)(2).
- 6) Certify that it will comply with federal Lifeline procedures and requirements in accordance with established effective dates; and requirements imposed by the Department, as discussed below.
- 7) Demonstrate that its designation as an ETC is consistent with the public interest, convenience, and necessity. 47 U.S.C. § 214(e)(2); 47 C.F.R. § 54.202(b).

D. Analysis

The Department finds that Starlink satisfies the requirements listed above. Furthermore, the Department finds that Starlink’s designation as an ETC in the Service Area is consistent with the public interest, convenience, and necessity. Accordingly, the Department grants, subject to the conditions herein, Starlink’s ETC designation in the Service Area for the reasons discussed below.

1. Starlink is a common carrier.

To meet the first ETC requirement, Starlink must establish that it is a common carrier. 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d). “Common carrier” is defined as “any person engaged as a common carrier for hire, in interstate or foreign communications by wire or radio” 47 U.S.C. § 153(11). Starlink affirms that it will provide broadband internet access service and voice service to the public on a common carrier basis. Petition at 9.

17-19. The FCC has waived the requirement that a petitioner seeking ETC status to receive RDOF funds submit a five-year improvement plan. *Auction Results Notice* ¶ 36 n.71.

2. *Starlink will offer the supported services throughout the Service Area, including offering Lifeline services to low-income customers.*

Starlink must demonstrate that it will offer the supported services throughout the Service Area. *RDOF Order*, ¶¶ 31-66; 47 U.S.C. § 214(e)(1)(A); 47 C.F.R. §§ 54.101(a), 54.201(d)(1), 54.405(a). Starlink has certified that it will provide supported services using a combination of its own facilities and resale of another carrier's service. Petition at 9; *see also* IR 1-18; 47 U.S.C. § 214(e)(1)(A); 47 C.F.R. § 54.201(d)(1). "Supported services" include qualifying broadband services; voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to emergency services (911 or E911), to the extent implemented. *See* 47 C.F.R. §§ 54.101, 54.401(a)(2); *USF/ICC Transformation Order*, ¶ 86.

Starlink states it will offer broadband internet service in the Service Area pursuant to 47 C.F.R. § 54.101(a)(2). *See* Petition at 12. Starlink states it has not decided the service tiers, rates, or terms and conditions for its supported broadband services. *See id.* at 12-13; IR 1-17. The Company did not provide the Department with detailed information about the broadband service plans it will offer in Massachusetts.

Starlink states it will offer voice service, including a standalone voice offering in the Service Area pursuant to 47 C.F.R. § 54.101(a). *See* Petition at 10. Starlink states it will provide voice rate plans that include local calling in the Service Area at no additional charge. *Id.* at 11. Starlink states that it has not decided the specific rates or terms and conditions for its supported voice services. *See id.* at 10-12; IR 1-21. The Company did not provide the Department with detailed information about the voice plans it will offer in Massachusetts.

Starlink states it will provide access to 911 and E911 services for all the customers in the Service Area. *See* Petition at 12. Starlink states it is developing compliance plans relating to

access to the emergency service network in Massachusetts. *See* IR 1-23. Relatedly, the Company states it is also developing compliance plans regarding the collection and remittance of the monthly E911 surcharge. *Id.*

Starlink states it will offer Lifeline service pursuant to 47 C.F.R. § 54.405. Petition at 13. Starlink states that it has not decided the specific rates or terms and conditions for its supported Lifeline offers. *See id.*; IR 1-26. The Company did not provide the Department with detailed information about the Lifeline plans it will offer in Massachusetts.

The Department finds that Starlink’s commitments to meeting the federal “supported services” and “own facilities” requirements are satisfactory, subject to the Company meeting the following post-designation filing requirements. Specifically, the Department directs Starlink to provide, prior to commencing RDOF service in Massachusetts, information about the broadband plans it will offer in the Service Area, including information on bandwidth, tier pricing, costs (including recurring costs, one-time costs, and installation costs), contract terms, and service limitations (including whether data caps will be imposed for Massachusetts customers). The Department also directs Starlink to provide, prior to commencing RDOF service in Massachusetts, information about the voice plans, including standalone voice plans, it will offer in the Service Area, including information on pricing, costs (including recurring costs, one-time costs, and installation costs), and contract terms. Should Starlink decide to fulfill its voice-service obligations through the use of a Managed Services Provider (“MSP”), the Department directs Starlink to provide, prior to commencing RDOF service in Massachusetts, information about the voice plans, including standalone voice plans, offered by the MSP in the Service Area, including information on pricing, costs (including recurring costs, one-time costs, and installation costs), contract terms, and the identity of the MSP. The Department also directs

Starlink, prior to commencing RDOF service in Massachusetts, to report to the Department when the 911-related compliance plans mentioned above are in place. The Department also directs Starlink to provide, prior to commencing RDOF service in Massachusetts, information about the Company's Lifeline service offering, including rates, terms, and conditions in order to satisfy 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. §§ 54.101(a), 54.201(d). For convenience, these directives have been summarized in an Addendum to this Order.⁵

3. Starlink will advertise the availability of the supported services in accordance with regulatory requirements.

Starlink must advertise the availability of supported services and charges in media of general distribution throughout the Service Area. 47 U.S.C. § 214(e)(1)(B); 47 C.F.R. § 54.201(d)(2). Starlink must also “[p]ublicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.” 47 C.F.R. § 54.405(b). Finally, Starlink must disclose on all materials describing the Lifeline service that: Starlink is the service provider; the offer is a Lifeline service; Lifeline is a government program; the service is non-transferable; only eligible consumers may enroll in the program; and the program is limited to one discount per household. *Id.* § 54.405(c), (d). Starlink states it will advertise the availability of, and rates and charges for, its supported service offerings using media of general distribution and direct mail. *See* Petition at 13; IR 1-26(b). The Department finds that Starlink has demonstrated that it will advertise the availability of supported services in media of general distribution throughout the Service Area.⁶

⁵ The absence of a directive or commitment referenced in this Order from the Addendum does not indicate any intent regarding Starlink's obligations or the enforceability of such directives or commitments.

⁶ While Starlink has not yet finalized its Lifeline marketing materials (*see* IR 1-26), the Department notes that ETCs are subject to ongoing requirements in Massachusetts, including the requirement to submit

4. *Starlink has certified that it will meet the service and performance quality requirements applicable to the type of RDOF support it receives.*

Starlink has certified that it will meet the service and performance quality requirements applicable to the type of support it receives. *See* 47 C.F.R. § 54.202(a)(1)(i); Petition at 13-14.

Starlink notes that in 2018, the FCC authorized the deployment and operation of Starlink’s satellite-based network to offer internet access to residential consumers. *See* Petition at 3.

Starlink emphasizes that the services it currently offers are in beta and, as such, any outages reported by customers during this early rollout period are not reflective of the RDOF offering Starlink will provide to customers in Massachusetts. *See id.* at 4; IR 2-13. Starlink states that the network’s technical maturity and inherent capacity will support high-throughput, low-latency broadband service. *See* Petition at 4. The Company also notes that the service it currently offers to customers is marketed as “Better than Nothing Beta.” *See id.*; IR 2-13. Starlink explains that beta users help validate technical, operational, and business system readiness. *See* Petition at 4.

In terms of customer service, Starlink states that it categorizes customer contact into four levels of customer support. *See* IR 2-3. The Company identifies Tier 1 as handling basic customer questions, Tier 2 as handling technical and complex escalations, and Tier 3 and 4 as handling very complex technical issues referred from customer service to Starlink’s Network Operations and Engineering Teams. *Id.* Starlink also tracks several performance metrics across its customer service department, including but not limited to response time, wait time, resolution time, quality, and escalation rate. *See* IR 2-4. Starlink states it plans to offer additional means of customer contact for inquiries and complaints, including by phone and email, prior to commencing supported services in the RDOF territories. *See* IR 1-11; IR 2-5.

copies of all advertising and marketing materials the ETC plans to use in Massachusetts. *See infra* Section III.D.6.b.

Starlink states that the company is implementing a performance measurement system related to obligations in 47 C.F.R. § 54.313(a)(6). *See* IR 1-12; IR 2-6. Starlink explains that it will likely use its own performance measurement system but may opt-in to the FCC's Measuring Broadband America system. IR 2-6.

The Department directs Starlink to update the Department, prior to commencing supported services, on the referenced additional means of customer contact for inquiries and complaints. The Department also directs Starlink to update the Department, prior to commencing supported services, on Starlink's chosen method to measure its performance in compliance with RDOF requirements.

Subject to the conditions herein, the Department holds that Starlink will meet the service and performance quality requirements applicable to the type of support it receives.

5. *Starlink has demonstrated its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.*

Starlink states that it has the ability to remain functional in emergency situations. Petition at 14. Starlink contends that it has sufficient backup power to remain functional without an external power source in emergency situations, and will be able to manage traffic spikes resulting from emergency situations pursuant to 47 C.F.R. § 54.202(a)(2). *Id.* Starlink commits to building redundancy into its network, which will include multiple satellites in view for every consumer, and multiple gateway sites in view of each of its satellites. *Id.* Starlink also commits to offering several battery backup options for an additional fee. *See* IR 2-8. The Company notes that it has not yet determined specific fees for battery backup options. *See* IR 2-8. The Department finds that Starlink has demonstrated its ability to remain functional in emergency

situations. The Department directs Starlink to provide information regarding its battery backup options and associated fees when they become available.

6. *Starlink must comply with FCC and Department requirements.*

a. *Federal Lifeline Procedures and Requirements*

Lifeline procedures and requirements established by the FCC include:

- 1) screening applicants using the National Lifeline Accountability Database as set forth in 47 C.F.R. § 54.404(b)(1)-(12);
- 2) complying with the carrier's obligations to offer Lifeline, including de-enrollment requirements, as established in 47 C.F.R. § 54.405(a)-(e);
- 3) certifying that the carrier is prepared to comply with the subscriber eligibility determination and certification requirements established in 47 C.F.R. § 54.410(a)-(h) to the extent applicable;
- 4) complying with annual certification requirements established in 47 C.F.R. § 54.416(a), (b);
- 5) complying with recordkeeping requirements established in 47 C.F.R. § 54.417;
- 6) complying with audit requirements, to the extent applicable, established in 47 C.F.R. § 54.420; and
- 7) complying with annual reporting requirements established in 47 C.F.R. § 54.422.

Starlink has agreed to comply with the FCC's procedures and requirements. *See* IR 1-26.

The Department finds that Starlink will comply with applicable federal Lifeline requirements.

b. *Department Requirements*

Starlink has stated that it will provide Lifeline service in Massachusetts and commits to meeting all Department ETC requirements. *See* Petition at 9, 13; IR 1-26; *Investigation by the Dep't on its Own Motion into the Implementation in Mass. of the Fed. Commc'ns Comm'n's Order Reforming the Lifeline Program*, D.T.C. 13-4, *Order Implementing Requirements* (Aug. 1, 2014) ("13-4 Order"). In particular, Starlink must:

- 1) File with the Department, within 60 days of the approval of its Petition:
 - a. a copy of the Lifeline application form that it will use for consumers in Massachusetts;
 - b. copies of all advertising and marketing materials that it plans to use in Massachusetts;
 - c. its rates, terms and conditions of service, applicable to qualifying Lifeline service customers;
 - d. contact information for its customer service designee; and
 - e. its proposed methods and timing of annual Lifeline recertifications and a sample Lifeline recertification notice.
- 2) File with the Department by March 1 of each year:
 - a. a copy of certifications filed annually with Universal Service Administrative Company pursuant to 47 C.F.R. § 54.416(a);
 - b. the number of subscribers de-enrolled for non-usage, by month, pursuant to 47 C.F.R. § 54.416(b) (FCC Form 555 or its equivalent); and
 - c. a report of marketing or promotional activities for the previous calendar year, including a description of media services used, methods of marketing, samples of advertisements published in Massachusetts, event appearances and zip codes of those events, and any other mass marketing activities conducted.
- 3) File with the Department by July 1 of each year:
 - a. the company name, names of the company's holding company, operating companies and affiliates, and any branding as well as relevant universal service identifiers for each such entity by Study Area Code, as required by 47 C.F.R. § 54.422(a)(1) (part of FCC Form 481 or its equivalent);
 - b. information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan, as required by 47 C.F.R. § 54.422(a)(2). If the plans offered to Lifeline subscribers are also generally available to the public, Starlink may provide summary information regarding such plans, such as a link to a public website outlining the terms and conditions of such plans (part of FCC Form 481 or its equivalent); and
 - c. a report of the number of complaints related to the Lifeline program during the

previous calendar year per 1,000 Lifeline subscribers in Massachusetts (if not provided as part of FCC Form 481).

- 4) Notify the Department of the following events within 30 days of any event's occurrence:
 - a. Starlink's ETC designation has been suspended, revoked, relinquished, or in any way withdrawn or removed in any jurisdiction;
 - b. the FCC, a state utilities commission, a court, or any government agency has rendered or entered a finding, civil judgment, or settlement (including consent decrees and money judgments) related to the Lifeline program, or a criminal conviction (including plea agreements) related to a dishonest act, false statement, or misuse of the Lifeline program against Starlink, its executives, or its senior managers;
 - c. any change(s) to Starlink's corporate ownership structure or principal address; and
 - d. any material change(s) to the ETC's method(s) or timing of annual recertifications, or to the sample recertification notice filed after approval of the Petition.
- 5) Provide to the Department a copy of any final audit report generated pursuant to 47 C.F.R. § 54.420(b) within 30 days of the issuance of the final audit report.
- 6) If it plans to discontinue offering Lifeline service in Massachusetts, (1) notify Lifeline subscribers and the Department 60 days in advance of the planned discontinuance of Lifeline service in Massachusetts, and (2) work in good faith with its Lifeline subscribers and the Department to facilitate smooth transition of subscribers to alternative ETCs of the subscribers' choice.
- 7) Update its Massachusetts Lifeline application within 30 days of changes in eligibility criteria, including Federal Poverty Guideline calculations.

Starlink has agreed to comply with the Department's Lifeline requirements. *See* IR 1-26;

13-4 Order.

7. *Starlink's designation as an ETC is consistent with the public interest, convenience, and necessity.*

Prior to designating a common carrier as an ETC, the Department must make an affirmative finding that such designation is "consistent with the public interest, convenience, and

necessity.” 47 U.S.C. § 214(e)(2); 47 C.F.R. § 54.202(b); *Universal Service Order*, ¶ 40; *T-Mobile Order* at 20-21. Starlink bears the burden of proving that its designation as an ETC in the Service Area is in the public interest. *See Universal Service Order*, ¶ 44. For the reasons discussed below, the Department finds that granting Starlink ETC designation is in the public interest.

“In analyzing whether a petition for ETC designation is in the public interest, the Department considers multiple factors, including the benefits of increased consumer choice and the unique advantages and disadvantages of the carrier’s service offering.” *T-Mobile Order* at 21 (quoting *Virgin Mobile Order* at 10); *see also Universal Service Order*, ¶¶ 40-44. This test must be applied in a manner consistent with the principles of preserving and advancing universal service and ensuring that quality services are available at just, reasonable, and affordable rates. 47 U.S.C. § 254(b)(1)-(2). Other factors that may be relevant in analyzing whether an ETC designation is in the public interest include: the availability of new choices for customers, affordability, quality of service, service to unserved or underserved customers, comparison of benefits relative to public cost, and considerations of material harm. *See Universal Service Order*, ¶ 40 n.111.

The Department and the Commonwealth have long recognized the importance of broadband expansion and access. *See, e.g., In re a Nat’l Broadband Plan for Our Future*, GN Docket No. 09-51, *Joint Comments of the Mass. Broadband Inst. & MDTC* at 16, 20-21 (June 8, 2009). In these 2009 Comments to the FCC, the Department and the Massachusetts Broadband Institute discussed that “broadband availability is a necessary resource to all Americans that has quickly permeated and influences every level of our society.” *Id.* at 21. More than 10 years later, the importance of access to broadband is even more critical for business, education, and civic

life. Access to broadband service allowed consumers, businesses, and others to maintain functions that would otherwise have been impossible when workplaces, schools, and other community institutions were physically inaccessible during the COVID-19 pandemic. Bringing federal funds into Massachusetts for the purpose of constructing and maintaining broadband infrastructure should convey a public benefit to the affected communities.

As each petitioner seeking ETC designation will likely be unique, the Department's exercise is necessarily fact-specific to each petition. *Universal Service Order*, ¶ 46. Accordingly, the Department evaluates the particular advantages or disadvantages of the services offered by Starlink, their affordability, and considerations of material harm in determining whether designating Starlink as an ETC is in the public interest. *Id.*

Starlink contends that its provision of voice and broadband services will help rapidly deploy service to those who need it most in underserved areas. *See* Petition at 15. Furthermore, Starlink states that ETC designation will allow it to use RDOF support to accelerate production of satellites and consumer premises equipment. *Id.* According to Starlink, this additional production will result in an acceleration of capacity deployment and more terminals at lower costs. *Id.*

Although Starlink has not yet decided on the broadband and voice plans it will offer in Massachusetts, it has stated that customers must have the Starlink Kit to access Starlink's services, with an upfront cost of \$499 for the equipment for all customers. *See* IR 1-17. The Kit is expected to become technologically obsolete after a certain unspecified time, and Starlink is evaluating its business plan for offering upgraded models to existing customers, although it has no definite plans yet. *See* IR 2-9. Starlink has also stated that it will continue to evaluate equipment pricing options over time, including in response to customer feedback. *See* IR 1-17.

The Department encourages Starlink to continue exploring pricing options that will make the most sense for Massachusetts customers, and to consider alternative payment arrangements, such as leasing options or installment payments, for customers who might find the upfront cost of the Kit prohibitively expensive but would still benefit from Starlink's services. In particular, the Department encourages Starlink to consider this cost impact on Lifeline-eligible households.

The Department finds, subject to the conditions herein, that Starlink's plan to introduce satellite voice and broadband service in the Service Area is consistent with the public interest. Accordingly, Starlink has met its obligation to establish that its ETC designation is consistent with the public interest, convenience, and necessity.

E. Conclusion

The Department finds that, subject to the conditions discussed herein, Starlink has satisfied the requirements for ETC designation in the Service Area and such designation is consistent with the public interest, convenience, and necessity. In addition to those conditions and requirements already discussed, the Department's designation of Starlink as an ETC is conditioned on Starlink's compliance with all applicable state and federal rules and regulations, including, but not limited to, RDOF program rules and regulations.

IV. ORDER

Accordingly, after notice, hearing, and consideration, it is hereby

ORDERED: the Department hereby GRANTS Starlink's Motions for Protection from Public Disclosure, subject to the limitations established above; and it is

FURTHER ORDERED: Consistent with the above, and subject to the aforementioned conditions, the Department hereby GRANTS Starlink's Petition for Designation as an Eligible Telecommunications Carrier in the Service Area; and it is

FURTHER ORDERED: Starlink shall comply with all directives and commitments contained and referenced in this Order.

By Order of the Department,



Karen Charles Peterson, Commissioner

RIGHT OF APPEAL

Pursuant to G.L. c. 25, § 5, and G.L. c. 166A, § 2, an appeal as to matters of law from any final decision, order or ruling of the Department may be taken to the Supreme Judicial Court for the County of Suffolk by an aggrieved party in interest by the filing of a written petition asking that the Order of the Department be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Department within twenty (20) days after the date of service of the decision, order or ruling of the Department, or within such further time as the Department may allow upon request filed prior to the expiration of the twenty (20) days after the date of service of said decision, order or ruling. Within ten (10) days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court for the County of Suffolk by filing a copy thereof with the Clerk of said Court. Appeals of Department Orders on basic service tier cable rates, associated equipment, or whether a franchising authority has acted consistently with the federal Cable Act may be brought to the Federal Communications Commission pursuant to 47 C.F.R. § 76.944.

ADDENDUM – CONDITIONS OF ETC DESIGNATION

- Starlink shall provide, as soon as it becomes available and prior to commencing RDOF service in Massachusetts, information about the broadband plans it will offer in the Service Area, including information on bandwidth, tier pricing, costs (including recurring costs, one-time costs, and installation costs), contract terms, and service limitations (including whether data caps will be imposed for Massachusetts customers). *See* IR 1-17; IR 2-11.
- Starlink shall provide, as soon as it becomes available and prior to commencing RDOF service in Massachusetts, information about all voice plans, including standalone voice, it will offer in the Service Area, including information on pricing, costs (including recurring costs, one-time costs, and installation costs), and contract terms. Should Starlink decide to fulfill the standalone voice obligation through the use of a Managed Services Provider (“MSP”), Starlink shall provide, as soon as it becomes available and prior to commencing RDOF service in Massachusetts, information about the voice plans, including standalone voice, offered by the MSP in the Service Area, including information on pricing, costs (including recurring costs, one-time costs, and installation costs), contract terms, and the identity of the MSP. *See* IR 1-17; IR 2-11.
- Starlink shall inform the Department, as soon as possible and prior to commencing RDOF service in Massachusetts, that Starlink’s compliance plans relating to access to the emergency service network in Massachusetts and the collection and remittance of the monthly E911 surcharge are completed and in place. *See* IR 1-23.
- Starlink shall provide, as soon as it becomes available and prior to commencing RDOF service in Massachusetts, information about the Company’s Lifeline service offering, including rates, terms, and conditions in order to satisfy 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. §§ 54.101(a), 54.201(d). *See* IR 1-26.
- Starlink shall update the Department, as soon as the information becomes available and prior to commencing RDOF service in Massachusetts, on its means of customer contact for inquiries and complaints, including all means of contact that Massachusetts customers will have to reach Starlink, including all digital and non-digital options, as well as service hours. *See* IR 1-11; IR 2-5.
- Starlink shall update the Department, as soon as the information becomes available and prior to commencing RDOF service in Massachusetts, on Starlink’s chosen method to measure its performance in compliance with RDOF requirements. *See* IR 2-6.
- Starlink shall provide, as soon as the information becomes available and prior to commencing RDOF service in Massachusetts, information regarding its available battery backup options and associated fees. *See* IR 2-8.